IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH

S.B. CIVIL WRIT PETITION NO.6712/98

Ram Karan & Anr.

Versus

Board of Revenue & Ors.

DATE OF ORDER :: 30/04/2007

HON'BLE MR. JUSTICE AJAY RASTOGI

Mr. Mohit Gupta for Mr. N.K. Maloo, for petitioners
Mr. Saransh Saini for Mr. G.K. Garg, for respondents

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Instant petition has been filed by petitioners assailing the order passed by learned Collector Ann.1 dated 7th December, 1992 and so also the appeal which was dismissed by the Board of Revenue vide order Ann.2 dated 28th May, 1993.

Brief facts necessary for adjudication of the dispute are that the ceiling proceedings under Ceiling Law were initiated against respondent Nos.3 to 5 and order was passed dt.24/06/72 holding that the assessee has 41 bighas 13 biswas land to be in excess of the ceiling limit and after passing of said order, surplus land was allotted to the present petitioners in 1976. The State Government thereafter passed order on 1st May, 1981 for reopening of the ceiling proceedings and after affording opportunity to the non-petitioners, the SDO/Collector passed order on 24th May, 1986 holding the surplus land as 53 bighas 10 biswas instead of 41 bighas 13

biswas - against the said order of the Collector, father of non-petitioners Shri Kanhaiyalal, original land holder preferred appeal before the Board of Revenue and the matter was remanded back for deciding afresh by the Board on 3rd July, 1989 and after remand, the learned Collector passed order on 25th September, 1989 holding that only 8.80 standard acres of land was found to be surplus and possession of excess land as a consequence thereof was to be restored back to non-petitioners.

During the intervening period, when the petitioners were going to dispossess, they approached the learned Collector to show that they being bona fide purchaser, have deposited the entire amount, atleast they cannot be dispossessed even if there is change in circumstances after passing of order by the Collector in favour of non-petitioners dt.25th September, 1989.

So far as ceiling proceedings are concerned, petitioners have no right of say and has no locus standi to question the same. In view thereof, learned Collector in his order Ann.1 dated 7th December, 1992 while holding to hand over the possession to the non-petitioners further directed that whatever the amount which has been deposited by petitioners the same shall be refunded to them by the Government in accordance with law – against which, petitioners preferred

appeal which was dismissed and review also met the same fate.

I have gone through the finding recorded by the learned authority which is duly supported by material on record and once the order passed by the learned Collector in relation to ceiling proceedings initiated in regard to non-petitioners Nos.3 to 5 finally decided on 25th September, 1989 holding that only 8.80 standard acres land to be declared surplus – as a consequence thereof, certainly non-petitioners were entitled for restoration of possession and this court does not find any infirmity in the order impugned in the instant petition.

So far as the payment which petitioners were entitled for which has been observed by the Collector in his order Ann.1 dated 7th December, 1992 and respondent Nos.3 to 5 in their reply have also averred about payment being received by petitioners. Even otherwise, if the same has still not been received by them, they are always free to initiate proceedings for recovery of said amount in accordance with law.

I find no merit in the writ petition, the same stands dismissed.

[AJAY RASTOGI],J.

FRBOHRA,JR.P.A.